

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ARTHUR O. ARMSTRONG : CIVIL ACTION
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SCHOOL DISTRICT OF :
PHILADELPHIA, et al. : NO. 99-0825

MEMORANDUM AND ORDER

HUTTON, J.

September 28, 1999

Pro se plaintiff Arthur O. Armstrong ("Plaintiff" or "Armstrong") filed the instant action on or about February 16, 1999, alleging a claim of conspiracy under federal statutory law.

Armstrong is a frequent litigant in this Court. Indeed, at least five civil actions filed by Armstrong are currently pending on the docket. It appears that every current and previous lawsuit filed by Armstrong in the Eastern District of Pennsylvania concerns the same transaction--Armstrong's August 25, 1992, dismissal from his job as a science teacher in the School District of Philadelphia on the grounds of his incompetence and violations of school regulations. As recognized by my colleague, Senior Judge John P. Fullam, Armstrong "has been devoting a great deal of time and effort to the apparent goal of making the school authorities rue the day they fired him." Armstrong v. School Dist. of Philadelphia, Nos. CIV.A. 96-4277, CIV.A. 68-5480, 1996 WL 537844, at *1 (E.D. Pa. Sept. 17, 1996).

Judge Fullam's prescient remarks of three years ago impress this Court as a conspicuous understatement. Not only has Armstrong continued his campaign of harassment against any and all parties even remotely related to his 1992 dismissal, said campaign has continued in the face of repeated defeats on adjudicated claims. Armstrong puts forth frivolous legal arguments in equally frivolous lawsuits that are vexations and abusive of the judicial process. Therefore, consistent with the recent actions of the Third Circuit Court of Appeals and the United States District Court for the Middle District of North Carolina, this Court enjoins Armstrong from filing any actions in the Eastern District of Pennsylvania without receiving the prior authorization of this Court. Accordingly, Plaintiff is enjoined from filing complaints relating in any way to his discharge from his job with the School District of Philadelphia.

I. BACKGROUND

The School District of Philadelphia terminated Armstrong's employment on or about August 25, 1992. Since that date, Armstrong has filed lawsuits, including the suit currently under consideration, in various jurisdictions seeking various remedies against numerous defendants. While this in itself is not necessarily vexatious, each suit focuses upon the same basic set of facts concerning Armstrong's dismissal from the School District of Philadelphia. Indeed, Armstrong filed at least twenty-four suits

in the Eastern District of Pennsylvania alone since the date of his dismissal.¹ He also appealed a sufficient number of adverse district court decisions to prompt the Third Circuit Court of Appeals to enjoin Armstrong "from filing, without prior authorization of [the Third Circuit], any appeal or petition for writ of mandamus/prohibition related in any appeal or petition for writ of mandamus/prohibition related to his discharge as a teacher in the Philadelphia School District, the Philadelphia Board of Education and its individual members, and the Philadelphia Federation of Teachers." (See Third Circuit Court of Appeals Order No. 97-1094, Aug. 14, 1997). Moreover, Armstrong is enjoined from filing any pleadings or submissions in the United States District Court for the Middle District of North Carolina. (See Middle District of North Carolina Order No. 97-01028, June 12, 1998).

In the instant action, Armstrong names as Defendants the School District of Philadelphia, Willig, Williams & Davidson, the Philadelphia Federation of Teachers, Harold Diamond, Catherine Reisman, and the Harold Diamond Law Office. Armstrong alleges that the above-named Defendants "were active and willful conspirators acting in a conspiratorial demeanor against the plaintiff to deny him his constitutional right in order to defraud him out of his teaching position." (Pl.'s Compl. ¶ 6). He seeks, inter alia,

¹ See United States District Court for the Eastern District of Pennsylvania Civil Action numbers 99-0825, 99-3424, 99-4587, 99-4586, 99-4699, 98-0154, 97-6944, 97-6308, 97-6178, 97-6130, 97-6124, 97-6007, 97-0393, 97-3887, 96-5925, 96-5740, 96-5480, 96-4368, 96-4277, 96-8042, 95-7287, 95-6642, 95-6501, and 94-3544.

compensatory damages under 42 U.S.C. §§ 1985(3) and 1986. (Pl.'s Compl. ¶ 6). Defendants in the instant action filed various motions for dismissal and summary judgment.

II. DISCUSSION

Federal courts are invested with the equitable power to issue injunctions when such issuance is necessary to effectuate orders of the court and to avoid relitigation of identical or similar issues. In re Packer Ave. Assoc., 884 F.2d 745, 747 (3d Cir. 1989). The All Writs Act, which codifies this equitable power, provides in pertinent part that "all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of the law." 28 U.S.C. § 1651(a) (1999). Section 1651(a) therefore authorizes district courts to issue an injunction, thereby restricting the access to federal courts of parties who repeatedly file frivolous litigation. Abdul-Akbar v. Watson, 901 F.2d 329, 332 (3d Cir. 1990); Wexler v. Citibank, No. CIV.A. 94-4172, 1994 WL 580191, at *7 (E.D. Pa. Oct. 21, 1994). Moreover, "[f]ederal court have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions." In re Martin-Trigona, 737 F.2d 1254, 1261 (2d Cir. 1984). Pro se litigants are not entitled to any special handling or exceptions and, therefore, do not have license to abuse the judicial process with impunity. Wexler, 1994

WL 580191, at *6; Mallon v. Padova, 806 F. Supp. 1189 (E.D. Pa. 1992).

The court therefore has broad discretion to protect its jurisdiction. Lysiak v. Commissioner of Internal Revenue, 816 F.2d 311, 313 (7th Cir. 1987). Enjoining a plaintiff from filing additional actions is an appropriate sanction to curb frivolous litigation. Id.

In the instant action, Armstrong has filed at least twenty-four lawsuits alleging groundless claims relating to his dismissal by the School District of Philadelphia. This Court recognizes that Armstrong litigious conduct in the Eastern District of Pennsylvania rises to the level whereby the All Writs Act may be invoked. Although this remedy is extreme, the Court is of the view that such action is warranted in this circumstance. It is imperative that this Court ensure that its limited resources are allocated in such a way as to promote and protect the interests of justice. Cognizant that this Court should be flexible when dealing with a pro se litigant, see In re McDonald, 489 U.S. 180, 184, 109 S. Ct. 519, 520, (1972), the time has come where this Court can no longer tolerate Armstrong's abuse of the judicial system.

Accordingly, this Court enjoins Armstrong from access to the federal court system without prior leave of this Court. Leave of court will be granted upon Armstrong's showing through a properly filed petition that the proposed filing: (1) can survive

a challenge under Federal Rule of Civil Procedure 12; (2) is not barred by principles of claim or issue preclusion; (3) is not repetitive or violative of a court order; and (4) is in compliance with Federal Rule of Civil Procedure 11. The Order and Injunction will not apply to the filing of timely notices of appeal from this Court to the Third Circuit Court of Appeals and papers solely in furtherance of such appeals. Finally, the Court grants all of Defendants' pending motions, denies all of Armstrong's pending motions, and orders the clerk of court to mark as closed this case (99-0825) and all other pending civil actions (including, but not limited to, 99-3424, 99-4587, 99-4586, and 99-4699) in the Eastern District of Pennsylvania in which Armstrong is a plaintiff.

An appropriate Order follows.

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O R D E R

AND NOW, on this 28th day of September, 1999, the Court enters the following Orders and Injunctions:

(1) The Court **GRANTS** Defendant School District of Philadelphia's Motion for Summary Judgment (Docket No. 5);

(2) The Court **GRANTS** Defendants Harold Diamond, et al.'s Motion to Dismiss (Docket No. 8); and

(3) The Court **GRANTS** Defendants Philadelphia Federation of Teachers, Willig, Williams, & Davidson, and Catherine Reisman's Motion for Summary Judgment (Docket No. 10).

To protect the integrity of the courts, all Defendants, and any potential Defendants from the harassment of further frivolous litigation initiated by Armstrong, the Court issues the following injunctions:

(1) The Court enjoins Armstrong, or any entity acting on his behalf, from filing any action in any court, state or federal, against the Defendants named in the instant action, without first obtaining leave of this Court;

(2) The Court enjoins Armstrong, or any entity acting on his behalf, from filing any new action or proceeding in any federal court, without first obtaining leave of this Court;

(3) The Court enjoins Armstrong from filing any further papers in any case, either pending or terminated, in the Eastern District of Pennsylvania, without first obtaining leave of this Court.

Because Armstrong has ignored previous injunctions issued against him, the Court finds it likely that Armstrong will attempt to ignore this Court's action; therefore,

The Court **ORDERS** the clerk of court to refuse to accept any submissions for filing except petitions for leave of court, unless such submissions for filing are accompanied by an order of this Court granting leave. In the event that Armstrong succeeds in filing papers on violation of this Order, upon such notice, the clerk of court shall, under authority of this Court's Order, immediately and summarily strike the pleadings or filings.

Leave of court shall be forthcoming upon Armstrong's demonstrating through a properly filed petition, that the proposed filing: (1) can survive a challenge under Federal Rule of Civil Procedure 12; (2) is not barred by principles of claim or issue preclusion; (3) is not repetitive or violative of a court order; and (4) is in compliance with Federal Rule of Civil Procedure 11.

The Court **ORDERS** Armstrong to attach a copy of this Order and Injunction to any such petition for leave of court.

The Court **ORDERS** the clerk of court to file and enter into the docket this Memorandum Opinion, Order, and Injunction and provide a copy of same to all parties in each case against whom Armstrong has actions pending in the Eastern District of Pennsylvania.

The Court **ORDERS** the clerk of court for the Eastern District of Pennsylvania to provide a copy of the accompanying Memorandum Opinion, Order, and Injunction to the clerk of court for the Middle District of North Carolina.

The Court **DENIES** Armstrong's Motion to Amend Caption (Docket No. 15).

The Court **DENIES** Armstrong's Motion to Litigate School Officials (Docket No. 14).

The Court **DENIES** any remaining motions not specifically enumerated herein.

The Court **ORDERS** the clerk of court to mark this case and all other cases pending in the Eastern District of Pennsylvania as **CLOSED**.

BY THE COURT:

HERBERT J. HUTTON, J.